

**From:** "Carl Johnston" <CJOHNSTO@osmre.gov>  
**To:** <DARONHADDOCK@utah.gov>  
**Date:** 10/10/03 7:48AM  
**Subject:** Mine Plan Determination - Emery Deep

Attached is OSM's preliminary decision regarding the need for a Mining Plan Modification for the above subject. A signed copy will be sent to you in today's mail.

In accordance with the Federal regulations under 30 CFR 740.13(d), other Federal agencies that may have an interest in, or jurisdiction over, the above subject operation have also been notified of OSM's decision electronically.

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UT-0005

October 10, 2003

Utah Division of Oil, Gas, & Mining  
Coal Regulatory Program  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

RE: Consolidation Coal Company - "Emery Deep" Mine - Application for an  
Amendment to the 4<sup>th</sup> East Portal Area to Abate NOV N03-39-1-1

Dear Sir or Madam:

This is in response to the Utah Division of Oil, Gas, & Mining's (UT-DOGM) September 15, 2003, request for a decision, under 30 CFR 947.30, whether the above subject permit revision constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands. This letter serves to document OSM's determination whether or not a mining plan approval from the Secretary is required for the above permitting action.

OSM's review of the Application for an Amendment to the 4<sup>th</sup> East Portal Area to Abate NOV N03-39-1-1, has determined that it proposes to modify the surface facilities layout to include an air shaft, a 10,000 ton coal stockpile, a 2,600 ton surge pile, associated coal handling facilities, a 100 ton rock dust bin, water tank, storage yard, two retention ponds and a sediment pond on privately owned lands to facilitate mining and reclamation operations at the Emery Deep mine, Utah State permit C/015/015. Revised text and drawings to discuss the construction and operation of the facilities area, as well as updated ownership and control and compliance information has been provided as a part of the application.

Based on a review of the activities associated with the permit revision, OSM has determined that the proposal does not meet the requirements of 30 CFR 746.11(a) and 746.18(d). Therefore, the proposed permit revision does not constitute a mining plan action requiring Secretarial approval.

OSM's decision was based solely upon the Federal regulations under 30 CFR PART 746 and not the technical aspects of the revision application itself. Consequently, OSM's decision does not relieve UT-DOGM from coordinating the review and approval of the Application for an Amendment to the 4<sup>th</sup> East Portal Area to Abate NOV N03-39-1-1 with other Federal

agencies for compliance with other Federal regulations.

OSM also electronically transmitted the September 16, 2003 request to the Bureau of Land Management and the U.S. Forest Service for their review and comment.

In an electronic transmittal dated September 16, 2003, the U.S. Forest service stated it had no jurisdiction over or comments on the application.

In an electronic transmittal dated October 9, 2003 the Bureau of Land Management stated that, in their opinion, the Amendment to the 4<sup>th</sup> East Portal Area to Abate NOV N03-39-1-1 does not represent a change that would require a Mining Plan Modification.

Please notify the applicant of our decision on this matter.

Should you have any questions regarding this letter or approval, please contact Carl R. Johnston, Utah Federal Lands coordinator, at (303) 844-1400, extension 1500.

Sincerely,

Ranvir Singh  
Manager, Northwest Branch

cc: Denver Field Division